

REMARKS

Claims 1-8, 10-13, 16-24, and 26-41 are pending. Reconsideration and issuance of a Notice of Allowance in view of the remarks that follow are respectfully requested.

35 U.S.C. § 102 Rejections

Claims 1-8, 10-13, 17-23, and 26-41 stand rejected under 35 U.S.C. §102(e) over U.S. Patent 7,380,107 to Steely, Jr. et al. (the “‘107 patent”) for reasons stated on pages 3-12 of the Office Action. This rejection is respectfully traversed.

The ‘107 patent is issued from an application filed on January 13, 2004. As described in the attached Declarations under 37 C.F.R. 1.131, Applicants conceived the claimed subject matter prior to January 13, 2004 as evidenced by the facts that Applicants submitted an invention disclosure describing the claimed invention on June 13, 2003. The invention disclosure was promptly processed within the company and a patent application was prepared and filed on January 15, 2004. The facts clearly demonstrate conception of the claimed subject matter prior to the effective date of the ‘107 patent, and due diligence in the reduction to practice of the invention from at least the time just prior to the effective date of the ‘107 patent (i.e., January 13, 2004) continuously up to the date of filing of the instant application (i.e., January 15, 2004). Therefore, the ‘107 patent may not be relied upon by the Examiner in rejecting claims 1-8, 10-13, 17-23, and 26-41 of the instant application, as the ‘107 patent is not prior art.

Accordingly, claims 1-8, 10-13, 17-23, and 26-41 are patentable. Withdrawal of the rejection of claims 1-8, 10-13, 17-23, and 26-41 under 35 U.S.C. §102(e) is respectfully requested.

Allowable Subject Matter


Applicant thanks the Examiner for indicating that claims 16 and 24 contain allowable subject matter.

Conclusion

In view of the above remarks, Applicant respectfully submits that the application is in condition for allowance. Prompt examination and allowance are respectfully requested. Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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Enclosures: Declaration of Simon C. Steely Jr. pursuant to 37 C.F.R. §1.131
Declaration of Gregory E. Tierney pursuant to 37 C.F.R. §1.131
Exhibit A